



IT IS ORDERED

Date Entered on Docket: December 8, 2017

The Honorable David T. Thuma
United States Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW MEXICO

IN RE:

Dennis Ronald Maldonado,

Debtor.

Case No. 17-12719-ta7

DEFAULT ORDER GRANTING RELIEF FROM STAY AND
ABANDONMENT OF PROPERTY LOCATED AT
3805 East 8th Street, Panama City, FL 32401

This matter came before the Court on the Motion for Relief from Stay and to Abandon Property filed on November 15, 2017, Docket No. 11 (the "Motion"), by Wells Fargo Bank, N.A. ("Movant"). The Court, having reviewed the record and the Motion, and being otherwise sufficiently informed, FINDS:

(a) On November 15, 2017, Movant served the Motion and notice of the Motion (the "Notice") on counsel of record for Debtor, Dennis Ronald Maldonado, and the case trustee, Philip J. Montoya, (the "Trustee") by use of the Court's case management and electronic filing system for the transmission of notices, as authorized by

Fed.R.Civ.P. 5(b)(3) and NM LBR 9036-1, and on the Debtor and US Trustee by United States first class mail, in accordance with Bankruptcy Rules 7004 and 9014;

(b) The Motion relates to the following property legally described as:

COMMENCE AT THE SOUTHWEST CORNER OF THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 2, TOWNSHIP 4 SOUTH, RANGE 14 WEST, BAY COUNTY, FLORIDA: THENCE N 89 DEGREES 59' 26" E, ALONG THE CENTERLINE OF 8TH STREET (A PUBLIC 50 FOOT RIGHT OF WAY) FOR 30.17 FEET; THENCE N 00 DEGREES 20' 40" W FOR 25.02 FEET TO THE INTERSECTION OF THE NORTH RIGHT OF WAY LINE OF SAID 8TH STREET WITH THE EAST RIGHT OF WAY LINE OF DETROIT AVENUE (A PUBLIC 60 FOOT RIGHT OF WAY); THENCE N 89 DEGREES 59' 26" E ALONG SAID NORTH RIGHT OF WAY LINE FOR 93.02 FEET TO THE POINT OF BEGINNING; THENCE N 89 DEGREES 59' 26" E ALONG SAID NORTH RIGHT OF WAY LINE FOR 63.28 FEET; THENCE LEAVING SAID NORTH RIGHT OF WAY LINE RUN N 00 DEGREES 20' 40" W FOR 155.02 FEET; THENCE S 89 DEGREES 58' 59" W FOR 62.74 FEET; THENCE S 00 DEGREES 08' 32" E FOR 155.01 FEET TO THE POINT OF BEGINNING.

and commonly known as: 3805 East 8th Street, Panama City, FL 32401;

(c) The Notice specified an objection deadline of 21 days from the date of service of the Notice, to which three days was added under Bankruptcy Rule 9006(f);

(d) The Notice was sufficient in form and content;

(e) The objection deadline expired on December 2, 2017;

(f) As of December 6, 2017, no objections to the Motion have been filed;

(g) The Motion is well taken and should be granted as provided herein; and

(h) By submitting this Order to the Court for entry, the undersigned counsel for Movant certifies under penalty of perjury that on December 6, 2017, McCarthy & Holthus, LLP searched the data banks of the Department of Defense Manpower Data Center ("DMDC") and found that the DMDC does not possess any information indicating that the Debtor Is currently on active military duty of the United States.

IT IS THEREFORE ORDERED:

1. Pursuant to 11 U.S.C. §362(d), Movant and any and all holders of liens against the Property, of any lien priority, are hereby granted relief from the automatic stay:

(a) To enforce their rights in the Property, including foreclosure of liens and a foreclosure sale, under the terms of any prepetition notes, mortgages, security agreements, and/or other agreements to which Debtor is a party, to the extent permitted by applicable non-bankruptcy law, such as by commencing or proceeding with appropriate action against the Debtor or the Property, or both, in any court of competent jurisdiction; and

(b) To exercise any other right or remedy available to them under law or equity with respect to the Property.

2. The Property is hereby abandoned pursuant to 11 U.S.C. §554 and is no longer property of the estate. Creditor shall not be required to name the Trustee as a defendant in any action involving the Property or otherwise give the Trustee further notice.

3. The automatic stay is not modified to permit any act to collect any deficiency or other obligation as a personal liability of the Debtor, although the Debtor can be named as a defendant in litigation to obtain an *in rem* judgment if Debtor is granted a discharge, or to foreclose the Property in accordance with applicable non-bankruptcy law. Nothing contained herein shall preclude Creditor or any and all holders of liens against the Property, from proceeding against the Debtor personally, to collect amounts due, if Debtor's discharge is denied or if Debtor's bankruptcy is dismissed.

4. This Order shall continue in full force and effect if this case converted to a case under another chapter of the Bankruptcy Code.

5. This Order is effective and enforceable upon entry. The 14-day stay requirement of Fed.R.Bankr.P. 4001(a)(3) is waived.

6. Movant is further granted relief from the stay to engage in loan modification discussions or negotiations or other settlement discussions with the Debtor and to enter into a loan modification with the Debtor.

###END OF ORDER###

RESPECTFULLY SUBMITTED BY:

/s/ Elaine Abeyta-Montoya
McCarthy & Holthus, LLP
Elaine Abeyta-Montoya, Esq.
Attorneys for Movant,
6501 Eagle Rock NE, Suite A-3
Albuquerque, NM 87113
(505) 219-4900
/s/ submitted electronically 12/7/2017
emontoya@mccarthyholthus.com

COPIES TO:

DEBTOR

Dennis Ronald Maldonado
721 East Ridge Dr, Apt 736
Midlothian, TX 76065

DEBTOR(S) COUNSEL

Sean Patrick Thomas
stlaws@gmail.com

CASE TRUSTEE

Philip J. Montoya
pmontoya@swcp.com

US TRUSTEE

PO Box 608
Albuquerque, NM 87103-0608

SPECIAL NOTICE(S)

Brittney Maldonado
721 Eastridge Dr
Apt 736
Midlothian, TX 76065